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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,904	01/11/2002	William F. Strutz	EISE096-2/LWT	7217
7590 02/20/2004			EXAMINER	
Terril G. Lewis			GOETZ, JOHN S	
HOWREY SIMON ARNOLD & WHITE, LLP 750 Bering Drive			ART UNIT	PAPER NUMBER
Houston, TX 77057-2198			3725	8

DATE MAILED: 02/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)			
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Office Action Summary	10/043,904	STRUTZ ET AL.			
Office Action Guillinary	Examiner	Art Unit			
The MAILING DATE of this communication ap	John S. Goetz	3725			
Period for Reply					
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).  - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).  Status					
1) Responsive to communication(s) filed on					
2a) ☐ This action is <b>FINAL</b> . 2b) ☐ This	action is non-final.				
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.					
Disposition of Claims					
4)  Claim(s) 42-144 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration.  5)  Claim(s) is/are allowed.  6)  Claim(s) is/are rejected.  7)  Claim(s) is/are objected to.  8)  Claim(s) 42-144 are subject to restriction and/or election requirement.					
Application Papers					
9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.					
Priority under 35 U.S.C. §§ 119 and 120					
<ul> <li>12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</li> <li>a) All b) Some * c) None of:</li> <li>1. Certified copies of the priority documents have been received.</li> <li>2. Certified copies of the priority documents have been received in Application No.</li> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> <li>13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet.</li> <li>37 CFR 1.78.</li> <li>a) The translation of the foreign language provisional application has been received.</li> <li>14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.</li> </ul>					
Attachment(s)					
Notice of References Cited (PTO-892)     Notice of Draftsperson's Patent Drawing Review (PTO-948)     Information Disclosure Statement(s) (PTO-1449) Paper No(s)	5) Notice of Informal	y (PTO-413) Paper No(s) Patent Application (PTO-152)			

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## **DETAILED ACTION**

## Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - Group I. Claims 42-104 and 119-144 drawn to various methods of operating a food waste disposer based on speed adjustment.
  - Group II. Claims 105-118, drawn to a method operating a food waste disposer based on torque adjustment.
- 2. Inventions of Groups I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. As evidenced by claims 42 and 105, a food waste disposal may operated based on speed alone or torque alone i.e. separately usable.
- 3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art, restriction for examination purposes as indicated is proper.

## - Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John S. Goetz whose telephone number is 703-308-1411. The examiner can normally be reached on Mon, Tues, Thurs, Fri 7:00am-5:30pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allen Ostrager can be reached on 703-308-3136. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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5. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-3136.

JSG

ALLEN OSTRAGER
SUPERVISORY PATENT EXAMINER

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